

# Notice of Allowability

Application No.

09/721,093

Examiner

Clement B. Graham

Applicant(s)

GUPTA ET AL.

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## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5/22/06.
2. ☒ The allowed claim(s) is/are 1,4-18 and 21-31.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

FRANTZY POINVIL  
PRIMARY EXAMINER

Au 3692

### EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Gerald Glanzman December 15, 2006.

The application has been amended as follows:

Claim 5 has been replaced by --

-- Claim, 5. A method, in a data processing system, for generating bids for bidding agents in an auction, the method comprising:  
sorting a plurality of bids by decreasing bid amount to form a sorted set of bids, wherein each bid includes a quantity and wherein the plurality of bids includes order bids;  
identifying a first bid requesting a quantity for which an unallocatable portion is present;  
selecting a number of order bids from the plurality of bids, wherein the number of order bids is higher in the sorted set of bids than the first bid and wherein each bid in a number of bids has an allocation requirement less than the unallocatable portion of the first bid; and  
setting a price, in the data processing system, for the number of order bids to form a final equilibrium price.---

Claim 13 has been replaced by --

-- Claim, 13, A data processing system comprising:  
a bus system;  
a communications unit connected to the bus system;  
a memory connected to the bus system, wherein the memory includes a set of instructions; and  
a processing unit connected to the bus system, wherein the processing unit executes the set of instructions to receive a plurality of bids through the communications unit, sort the plurality of bids by decreasing bid amount to form a

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sorted set of bids in which each bid includes a quantity and the plurality of bids includes order bids, identify a first bid within the sorted set of bids having a quantity in which an unallocatable portion is present, select a number of order bids from the plurality of bids in which number of order bids are higher in the sorted set of bids than the first bid and wherein the each bid in a number of bids has an allocation requirement less than the unallocatable portion of the first bid,  
set a price for the number of order bids.--

Claim 22 has been replaced by --

-- Claim, 22, A data processing system for generating bids for bidding agents in an auction, the data processing system comprising:  
sorting means for sorting a plurality of bids by decreasing bid amount to form a sorted set of bids, wherein each bid includes a quantity and wherein the plurality of bids includes order bids;  
identifying means for identifying a first bid requesting a quantity in which an unallocatable portion is present;  
selecting means for selecting a number of order bids from the plurality of bids, wherein the number of order bids are higher in the sorted set of bids than the first bid wherein the each bid in a number of bids has an allocation requirement less than the unallocatable portion of the first bid; and  
setting means for setting a price for the number of order bids.—

Claim 31 has been replaced by --

-- Claim, 31, A computer program product in a computer readable medium for generating bids for bidding agents in an auction, the computer program product comprising:  
first instructions for sorting a plurality of bids by decreasing bid amount to form a sorted set of bids, wherein each bid includes a quantity and wherein the plurality of bids includes order bids;  
second instructions for identifying a first bid requesting a quantity for which an unallocatable portion is present;

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third instructions for selecting a number of order bids from the plurality of bids, wherein the number of order bids are higher in the sorted set of bids than the first bid and wherein the each bid in a number of bids has an allocation requirement less than the unallocatable portion of the first bid; and fourth instructions for setting a price for the number of order bids.--

#### **Allowable Subject Matter**

Claims 1, 5, 13, 18, 22, 30, and 31 are allowed.

The following is a statement of reasons for indication of allowable subject matter. The prior art fails to teach, or suggest, the limitations of:

" wherein the each bid in a number of bids has an allocation requirement less than the unallocatable portion of the first bid " (as in independent Claims 1, 5, 13, 18, 22, 30, 31);

BOARMAN et al (US Patent No: 6, 609, 112) discloses a computer controlled auctioning system, in which a large number of participants may have simultaneous access to bid on to the desired priority rights and a system constructed to sell a large number of priority rights in a very short time, each said priority right being sold for a value set by existing market forces. The system provides participants with simple, yet informative graphical standing bid information on the entire stock of priority rights available, and allows them real-time bidding interaction. This system can achieve such sales even for priority rights garnering extremely high public interest, without excluding any potential purchasers.

The present system achieves said objectives by employing a computer controlled priority right auctioning system which receives and evaluates bid information records received from a plurality of remote terminals, said bid information records corresponding to bids for one or more priority rights.

The automated priority right auctioning system is comprised of a memory storing a plurality of previously accepted bid information records, said records each including identification information, section information, quantity information, and bid price information. The automated priority right auctioning system is further comprised of a

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central controlling computer operably connected to the memory and operable to receive a message including a received bid information record from one of a plurality of remote terminals through a communication system, determine a lowest minimum acceptable bid value corresponding to the received section information using the previously accepted bid information records stored in the memory, and store the received bid information record if a value represented by the received bid price information exceeds the lowest minimum acceptable bid value.

The central controlling computer is further operable to, in a like manner, receive, evaluate and store, if acceptable, subsequent bids received and to stop receiving subsequent messages after a predetermined time period.

Neither this Patent, alone nor in combination with others, disclose nor teach the feature of "wherein the each bid in a number of bids has an allocation requirement less than the unallocatable portion of the first bid".

Brett (US Patent : 6, 907, 405) discloses a computer controlled priority right auctioning system is now described with reference to FIGS. 1-27. Although many of the Figures anticipate that the priority rights being auctioned are in the form of tickets to a venue, as described herein the priority right auctioning system may be used to auction any of a number of different types of priority rights, examples of which are provided above in the Background. Description to certain pieces of auction information, such as "groups" and "subgroups" or "sections" and "subsections", may not apply to all priority right auctions. In addition, the term "priority rights" is used throughout the Description to represent all such priority rights which may be auctioned using the system.

FIG. 1. shows the computer controlled priority right auctioning system 10 which is built according to the present invention. As, shown, the computer controlled auctioning system 10 is comprised of a central computer 12 such as an Internet server which sends and receives information through a communication system 13 such as the public telephone system, television cable system, or satellite communications system to remote terminals 14.sub.1, 14.sub.2, 14.sub.3 . . . 14.sub.n, such as personal computers or other network accessing devices. In this embodiment, Internet sites are constructed consisting of web pages of graphics and text stored as html files, which

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present the necessary information pertaining to upcoming events and ticket sales.

These sites are stored in the memory of the central computer 12. The construction and initiation of these sites is shown as step 22 and step 23 in FIG. 2, which is a flowchart illustrating the general operation of this exemplary system.

Neither this Patent, alone nor in combination with others, disclose nor teach the feature of "wherein the each bid in a number of bids has an allocation requirement less than the unallocatable portion of the first bid".

Fredrick M. Biddle. " THE WALL STREET JOURNAL, LockheedAsset Sales May Fall --- Coming Proposal Is Unlikely to Satisfy U.S. Demands For Acquiring Northrop, New York, New York: Marc, 1, 1998.pg. 1) discloses Those who are exercised over the telecom bids tangle in Parliament may have a sense of deja vu on reading this tale from Down Under. The Australian Government offered two licences for satellite-television services through first-price sealed-bid auction in April 1993. The licences were won by two dark horse bidders called Hi Vision Ltd. and Ucom Pty. Ltd. by offering startlingly high bids of A 212m and A 177m in the face of competition from established players including a consortium of major players such as Rupert Murdoch, Kerry Packer and Telecom Australia. Hi Vision had an issued capital of merely A 100. What followed was high drama, quite like what happened in India. It turned out that the two adventurer companies had no intention of paying their highest bids which they had put in just to ensure winning taking advantage of the fact that there was no penalty for default. They had also put in about 20 successively lower bids. They then proceeded to successively default on their bids, and in the end, the two licences were awarded for A 117m and A 77m, at about half the original bid. The impact of a low penalty for default could be similar. In the case of bids for basic telecom services in India, if HFCL had defaulted on its bids worth Rs. 86,000 crores in the nine circles, it would have had to incur a penalty of only about Rs. 175 crores. This has to be seen against the gap of about Rs. 55,000 crores between the first and the second highest bids in these nine circles put together. Ideally, the penalty for default or the security deposit should equal this gap. Under the current practice this cannot be ensured as the security deposit is taken before or alongwith the bids. This suggests a change in procedure whereby the security deposit

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should be taken in two parts: an initial earnest deposit with the bids which can be kept low, and a security deposit which should be taken after the bids are opened but before they are announced and equal to the maximum of the gap between two successive bids among the top four or five bids. If the bids are in terms of streams of cash flows, then the security deposit could reflect the present value of the gaps. How should bidders belonging to designated classes such as the Scheduled Castes/Tribes in India, minorities, women and domestic as against foreign investors be helped? Should a quota of items be set aside for exclusive bidding by them or should they be given price preference in common bids?

Given the available choice of auction forms, the obvious question arises as to which form to choose for a particular purpose. This may depend on the question as to which auction form is likely to secure the maximum revenue for the seller. Should a reserve price be set, and if so, how high should it be? What is the best way to positively discriminate in favour of some designated bidders or social groups to meet social or Constitutional obligations? Should lumpsum payments only be taken from the winning bidders or should these be based on the future observable income from the item as in the case of royalties for minerals and books? If the seller has some information about the value of the item, should it be shared with the bidders? Happily for us, the new auction theory which is a child of the economics of imperfect information and the theory of games, answers these questions in a wide variety of practical auction situations. While the conclusions are of very general sweep, the ardour to apply them needs to be tempered with common sense and a respect for the robustness and stability of the common auction forms which have weathered the test of time. Such an approach of cautious experimentation has already been tried in the summer of 1994 by the Federal Communications Commission (FCC) of the U.S. to design an auction with the help of theorists to sell radio spectrum rights for the Personal Communications Systems. One of the first results of auction theory is that the Dutch auction and the first-price sealed-bid auction are strategically equivalent and will always lead to the same outcome. This is so, because the Dutch auction does not generate any information in the course of the

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auction till the winning bid, and therefore each bidder has to determine his or her bid price in isolation, which is exactly what happens in a first-price sealed-bid auction.

Neither this non-patent literature, alone nor in combination with others, alone nor in combination with others, disclose nor teach the feature of "wherein the each bid in a number of bids has an allocation requirement less than the unallocatable portion of the first bid ".

John Racine, "Lastly Richardson, Tex., Modified Dutch Auction to increase Debt Menufor Residents, New York , New , York: March 5, 1993. Vol. 303, Iss. 29103; pg 3): discloses how option pricing methods can be used to allocate required capital Hoping to make more debt available to residents, Richardson, Tex., officials plan to sell \$34 million of refunding bonds this month through an auction process that gives the city control of allocation by eliminating a traditional underwriter and the plan by the double-A rated Dallas suburb comes a month after Lewisville, Tex., used the same Dutch auction-style sale, which gives the city the control of a negotiated transaction and the economy of a competitive deal.

Under that system, Richardson will take bids on March 17 for all its maturities and decide how to allocate the bonds in an attempt to ensure that securities are available to local retail investors.

Dan Parker, assistant city manager for finance, said the city council this week decided to try the auction after citizens complained they were unable to buy any of a \$36.9 million general obligation bond issue underwritten last month by Goldman, Sachs & Co. in a competitive sale.

"We've had a lot of interest within the community over the past years in purchasing Richardson bonds and not having the opportunity to do so," he said. "I heard about Lewisville and found that they had a similar concern that bonds never make it down to local voters."

Parker said that while the city was pleased with Goldman's bid last month, some city council members believe Wall Street firms would rather sell bonds to institutional clients than retail buyers.



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However, "The Blue List," the daily log of bonds offered in the secondary market, shows that yesterday four firms, including Goldman Sachs, were offering \$2.92 million of the Richardson bonds.

"I don't think you can blame the underwriter because a retail investor can't get bonds through his local broker," said a Texas trader familiar with the debt. "The bonds are out there for the bid."

Until this week, the city had been expected to go with a traditional underwriting.

"We went there with the idea that we were going to do a traditional deal," said Harold McInroe, a principal at First Southwest Co. in Dallas, the city's financial adviser. "They just felt the subscription method was an opportunity to make some bonds available for local brokers."

First Southwest was also financial adviser to Lewisville. As in last month's sale, the firm will act as both financial adviser and as subscription agent to help the city sort through bids expected in two weeks.

Also, the firm is expected to provide a backup agreement for the city in which it will agree to buy any bonds for which Richardson believes the bids are not adequate.

Under the proposed auction style, the city will accept bids from underwriters on all or part of any of the refunding bonds it plans to sell. The city will then choose the best bids and allocate the bonds.

A formal award of the bonds is expected March 22 when the bond purchase agreement is to be signed.

First Southwest has compared the sale to a Dutch auction, a procedure commonly used for the sale of short-term securities in which bidders stipulate the lowest interest rate they are willing to accept. However, under this process, the city will determine what bids it accepts.

In a traditional sale, the bookrunning senior manager allocates bonds among members of the underwriting syndicate. In theory, the underwriter's capital is at risk until the bonds are successfully placed. Under the Richardson proposal, an underwriter is only responsible for the bonds it is awarded.

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At present, Richardson plans to refund portions of its 1985 general obligation issue and the callable bonds in its 1989 and 1991 certificates of obligation sales.

Neither this non-patent literature, alone nor in combination with others, alone nor in combination with others, disclose nor teach the feature of "wherein the each bid in a number of bids has an allocation requirement less than the unallocatable portion of the first bid".

### Conclusion

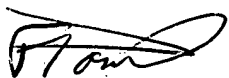
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clement Graham whose telephone number is (571) 272-6795. The examiner can normally be reached on 8:30am-5:00pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status Application/Control Number: 1, 015, 4143 Page 5 Art Unit: 3628 information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

C GRAHAM

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Dec 15, 2006

  
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